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SUBJECT: Minister Defends Decree 97 in Face of Criticism from Charge,  
other COMs

REF: HANOI 909; HANOI 827

1.(SBU) Summary: Charge and COMs from like-minded countries reiterated their concerns about the harmful impact of Decree 97 on research and development organizations during a meeting with Vietnamese Minister of Science and Technology (MoST) Hoang Van Phong November 6. Phong argued that the Decree did not restrict the operations of independent research organizations and insisted that the GVN was committed to maintaining international academic and research standards. The COMs took issue with Phong's overly positive interpretation of the Decree and stated it could hinder Vietnam's efforts to attract support from the international business, academic and scientific communities. The Ambassador will reiterate these concerns at the December 3-4 Consultative Group meeting. End summary.

12. (U) MoST Minister Hoang Van Phong met with Charge and the Ambassadors of Sweden (representing the EU) and Canada (representing Switzerland, New Zealand and Norway--the "Group of Four") on November 6, saying he had been tasked by the Prime Minister to respond to the Ambassadors' letters of September 11 and 18 expressing concern about the draft degree's effect on civil society, freedom of expression, R&D, and Vietnam's investment climate. During a lengthy defense, Phong argued Decree 97 was consistent with existing Vietnamese law and did not restrict citizens' right to engage in scientific and technological research, or publish their results. It requires organizations, but not individuals, to submit reports to competent State agencies before publishing them. Phong claimed the GVN based the list of categories of fields in which individuals are allowed to establish science and technology organizations, consulted lists produced by the OECD, UNESCO, and the governments of Singapore, Australia, New Zealand, Thailand and Malaysia. Acknowledging that the promulgation of Decree 97 had created ambiguity in Vietnam and abroad, Phong said MoST would issue a circular providing implementing guidance.

13. (SBU) However, Minister Phong muddled the waters by noting that the GVN was working on three separate decrees governing investment and cooperation with foreign partners, but was unable to answer the COMs' repeated questions about the decrees. (Note: Although the Minister said the draft decrees were posted on a government website, we were unable to find them. On November 27 Post learned that the Ministries of Education, Science and Technology, and Health have drafted separate decrees governing investment and cooperation with foreign partners in their respective sectors. We have a Vietnamese-language version of the decree governing science and technology and are analyzing it. In its public comments on the decree on education, the VBF Education Working Group noted "the draft Decree is very prescriptive and is somewhat ambiguous. Potential investors could be deterred by regulations that are unclear, unnecessarily prescriptive and/or create unreasonably burdensome reporting requirements. Instances of ambiguity in the current Draft would add to confusion for potential investors." We

have not yet seen the draft decree on healthcare. End note.)

¶4. (SBU) The Swedish Ambassador expressed the EU's concern that the Decree sent disturbing signals to the business community and could cause investors to reject Vietnam as a potential research site. It also restricted academic institutions and non-governmental organizations from engaging in independent research and publishing their findings. He expressed hope Vietnam would respect international norms of academic freedom and create a world-class venue for research and development. The Canadian Ambassador noted that the Decree restricted research organizations' ability to register in Vietnam in ways that were not consistent with OECD guidelines. There also are problems with NGOs not understanding whether they had to register anew and whether MoST would accept that registration. She expressed hope the GVN would issue clear and transparent implementing guidelines and encouraged the GVN to minimize the negative impact of Decree 97.

¶5. (SBU) Charge added that Decree 97 represented a step backwards for Vietnam in its effort to develop its research and development capability. It was important that all research - even that involving sensitive areas - be made public and discussed. Charge cautioned that Decree 97 could force U.S. higher education institutions and universities to reconsider partnering with

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Vietnam, given its restrictions on academic research. She noted that restrictions on organizations' ability to publish their findings not only did not accord with international practice, but would result in a substantial reduction in public policy inputs available to the GVN. Recent firings and transfers of editors and arrests of bloggers and reporters had had a chilling effect on public discourse and called into question the Minister's assertion that any individual was free to publish their research. Charge also commented pointedly on the Decree's chilling effect on civil society, saying the closure of organizations like the Institute for Development Studies (IDS) (ref. B), deprived the GVN of important public policy input that was essential for Vietnam's continuing economic development.

¶6. (SBU) Phong repeated that Decision 97 accorded with international standards, since it allowed individuals to publish their findings. He argued that scientists can publish their findings in the MoST magazine, which he described as a source of information for people and investors. In what appeared to be a veiled reference to IDS, the Minister cautioned that some researchers in Vietnam who publish their findings and stir up the public constitute a "danger." Such information must be "verified" before being released to the public.

¶7. (SBU) Comment: Decree 97, together with the latest version of Decree 88 on associations and the blocking of Facebook (ref. A), are concerted efforts by the Communist Party and the State to restrict citizens' rights to information and to express their views freely. As preparations for the January 2011 Party Congress intensify, we are likely to see an intensified crackdown on freedom of expression, including additional restrictions on individuals and organizations like IDS who are considered threats by the State, but the effects of regulations such as Decree 97 will persist well beyond the Party Congress. The Ambassador, along with several other Ambassadors, will raise these concerns once again - and more publicly - at the December 3-4 Consultative Group Meeting. End Comment.  
Michalak